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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,724	10/08/2003	Robert H. Kummer JR.	F-725	6704

7590   05/01/2007

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ART UNIT	PAPER NUMBER
3628	

MAIL DATE	DELIVERY MODE
05/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/681,724	KUMMER ET AL.
	Examiner	Art Unit	
	Daniel P. Vetter	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE **3** MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 February 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *11-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *11-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *08 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claims 1-10 have been canceled. Claims 11, 12, 14, and 19 have been

amended. Claims 11-20 are currently pending in this application.

Response to Amendment

1.   Applicant's amendment to the Specification is sufficient to overcome the

objection to the drawings. The drawings are accepted by the Examiner.

2.   Applicant's amendment to claims 11 and 19 overcome their objections and they

are withdrawn.

3.   Applicant's amendment to claims 12 and 14 overcome their rejections under 35

U.S.C. § 112, second paragraph and these are withdrawn as to claims 12 and 14-17.

Response to Arguments

4.   Applicant's arguments filed February 12, 2007 have been fully considered but

they are not persuasive.

Applicant argues that because, in Kulik, the user selects a rate table it does not

teach selecting a class of service. However, Applicant admits in page 8 of Remarks

submitted February 9, 2007 that Kulik teaches the user inputs a rates template used for

processing mail pieces. Kulik therefore teaches the user selects a class, as the claimed

invention was not directed to doing so without the use of a rate table that was not

initially created by the user. Merely because in Kulik, the user selects a class for mail

pieces in initially creating a rate table and then later selects that rate table does not

mean it lacks a teaching that the class is selected by the user. Applicant similarly

argues that because the processing step of determining the propriety of a class is done

solely by weight in Kulik, that it does not teach the rating is based upon a class selected

by the user. However this argument is also not persuasive because the rating in Kulik is

done based upon the template which the user initially created (column 3, lines 15-16);

and therefore not solely on weight. This line of reasoning also applies to the argument

that Kulik does not teach determining a second class of service, as there is nothing in

the claimed invention which prevents this from reasonably occurring during the initial

setup of the rate table, as taught by Kulik, which teaches doing so with multiple class

determinations (column 6, lines 43-46).

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Kulik, U. S. Pat. No. 5,842,186 (Reference AC of the IDS submitted on 10/08/2003) in

view of Ramsden, et al., U.S. Pat. No. 5,831,220 (Reference A of the PTO-892 part of

Paper No. 20061101).

3.   As per claim 11, Kulik teaches a mail processing system for processing a mail

piece comprising: a postage meter for applying postage values to said mail piece

(column 5, line 15); a scale for weighing said mail piece (column 5, line 14); a central

processing unit controlling operation of said postage meter and said scale (column 5,

line 19-20); and a memory storing postage rating information (column 5, lines 21, 34-35)

and software executable by said central processing unit (column 5, line 20), said

software including instructions for performing: receiving a first class of service from a

user for processing said mail piece (column 4, lines 58-59); determining a weight of said

mail piece using said scale (column 4, lines 60-61); determining whether said first class

of service received from said user is appropriate for said mail piece using said

determined weight and other parameter (column 8, lines 38-41), and if said first class of

service is not appropriate, determining a second class of service for said mail piece

using said determined weight and other parameter (column 8, lines 41-44), said second

class of service being appropriate for said mail piece (column 8, lines 41-44); setting a

final class of service for said mail piece (column 8, line 40), said final class of service

being said first class of service if said first class of service is determined to be

appropriate and said second class of service if said first class of service is determined

to not be appropriate (column 8, lines 38-44; column 7, lines 16-25); and determining a

postage amount for said mail piece using said determined weight, at least one

dimension, said final class of service and said postage rating information (column 5,

lines 3-6; column 7, lines 50-53). Kulik does not teach a dimensioning module for

determining at least one dimension of said mail piece, does not teach the central

processing unit controlling said dimensioning module, and does not teach determining

at least one dimension of said mail piece using said dimensioning module. Ramsden,

et al. teaches a dimensioning module for determining at least one dimension of said

mail piece (column 16, lines 1-3), the central processing unit controlling said

dimensioning module (column 17, lines 20-21); determining at least one dimension of

said mail piece using said dimensioning module (column 16, line 31). It would have

been prima facie obvious to one having ordinary skill in the art at the time of invention to

incorporate a dimensioning module for determining at least one dimension of said mail

piece, the central processing unit controlling said dimensioning module; determining at

least one dimension of said mail piece using said dimensioning module; into the system

taught by Kulik because dimensions are used to determine postage charges (as taught

by Ramsden, et al., column 2, lines 49-52).

4.   As per claim 12, Kulik in view of Ramsden, et al. teaches the system of claim 11

as described above. Kulik further teaches the software further includes instructions for

causing said postage meter to apply said determined postage amount to said mail piece

or a tape to be applied to said mail piece (column 5, lines 28-33).

5.   As per claim 13, Kulik in view of Ramsden, et al. teaches the system of claim 11

as described above. Ramsden, et al. further teaches receiving one or more special

services to be applied to said mail piece (column 2, lines 54-55). It would have been

prima facie obvious to one having ordinary skill in the art at the time of invention to

incorporate receiving one or more special services to be applied to said mail piece into

the system taught by Kulik in view of Ramsden, et al. because many deliverers offer

special services for a premium price (as taught by Ramsden, et al., column 1, lines 31-

32).

6.   As per claim 14, Kulik in view of Ramsden, et al. teaches the system of claim 13

as described above. Ramsden further teaches determining whether each of said

special services is applicable to said mail piece using said postage rating information,

said postage rating information including special service availability information, and

generating a list of applicable special services for said mail piece (column 2, lines 49-

53). It would have been prima facie obvious to one having ordinary skill in the art at the

time of invention to incorporate determining whether each of said special services is

applicable to said mail piece using said postage rating information, said postage rating

information including special service availability information, and generating a list of

applicable special services for said mail piece into the system taught by Kulik in view of

Ramsden, et al. because many deliverers offer special services for a premium price (as

taught by Ramsden, et al., column 1, lines 31-32).

7.   As per claim 15, Kulik in view of Ramsden, et al. teaches the system of claim 14

as described above. Kulik further teaches determining a postage amount for said mail

piece using said determined weight, said determined at least one dimension, and said

final class of service (column 5, lines 1-8). Kulik does not teach determining a postage

amount for said mail piece using said list of applicable special services. Ramsden, et

al. teaches determining a postage amount for said mail piece using said list of

applicable special services (column 2, lines 52-53). It would have been prima facie

obvious to one having ordinary skill in the art at the time of invention to incorporate

determining a postage amount for said mail piece using said list of applicable special

services into the system taught by Kulik in view of Ramsden, et al. because many

deliverers offer special services for a premium price (as taught by Ramsden, et al.,

column 1, lines 31-32).

8.   As per claim 16, Kulik in view of Ramsden, et al. teaches the system of claim 14

as described above. Ramsden, et al. further teaches determining whether each of said

special services is applicable to said mail piece is based on said final class of service,

said determined weight, said determined at least one dimension, and a determination as

to whether all applicable prerequisite requirements have been satisfied (column 21,

lines 6-14). Examiner is interpreting determining if a service option is "available" as

determining whether all applicable prerequisite requirements have been satisfied. It

would have been prima facie obvious to one having ordinary skill in the art at the time of

invention to incorporate determining whether each of said special services is applicable

to said mail piece is based on said final class of service, said determined weight, said

determined at least one dimension, and a determination as to whether all applicable

prerequisite requirements have been satisfied into the system taught by Kulik in view of

Ramsden, et al. because many deliverers offer special services for a premium price (as

taught by Ramsden, et al., column 1, lines 31-32).

9.   As per claim 17, Kulik in view of Ramsden, et al. teaches the system of claim 14

as described above. Ramsden, et al. further teaches the software further includes

instructions for storing transaction information for said mail piece in said memory

(column 10, lines 8-9). The limitation "said transaction information including said

determined postage amount and said final class of service" is a recitation of the non-

functional descriptive material (i.e., transaction information) stored on the memory and

is afforded no patentable weight. Non-functional descriptive material cannot render

non-obvious an invention that would otherwise have been obvious. *In re Gulack*, 703

F.2d 1381, 1385; 217 USPQ 401, 404 (Fed. Cir. 1983). It would have been prima facie

obvious to one having ordinary skill in the art at the time of invention to incorporate the

software further includes instructions for storing transaction information for said mail

piece in said memory into the system taught by Kulik in view of Ramdsen, et al. in order

to maintain a package history log (as taught by Ramsden, et al., column 10, line 42).

10.   As per claim 18, Kulik in view of Ramsden, et al. teaches the system of claim 11

as described above. Ramsden, et al. further teaches the software further includes

instructions for storing transaction information for said mail piece in said memory

(column 10, lines 8-9). The limitation "said transaction information including said

determined postage amount, said final class of service and said list of applicable special

services" is a recitation of the non-functional descriptive material (i.e., transaction

information) stored on the memory and is afforded no patentable weight. Non-functional

descriptive material cannot render non-obvious an invention that would otherwise have

been obvious. *In re Gulack*, 703 F.2d 1381, 1385; 217 USPQ 401, 404 (Fed. Cir.

1983). It would have been prima facie obvious to one having ordinary skill in the art at

the time of invention to incorporate the software further includes instructions for storing

transaction information for said mail piece in said memory into the system taught by

Kulik in view of Ramdsen, et al. in order to maintain a package history log (as taught by

Ramsden, et al., column 10, line 42).

11.   As per claim 19, Kulik in view of Ramsden, et al. teaches the system of claim 11

as described above. Kulik further teaches determining whether said first class of

service supports said determined at least one parameter (column 8, lines 38-39; Tables

1-3) and, if not, finding a third class of service that supports said determined at least

one parameter (column 8, lines 41-43; Tables 1-3); determining whether one of said first

class of service and said third class of service, if applicable, supports said determined

weight (column 8, lines 38-43; Tables 1-3) and, if not, finding a fourth class of service

that support said determined weight (column 8, lines 45-46; Tables 1-3); setting said

second class of service equal to said third class of service if said first class of service

does not support said at least one parameter and said third class of service supports

said weight (column 7, lines 21-23; column 8, lines 41-43; Tables 1-3); and setting said

second class of service equal to said fourth class of service if neither of said first class

of service and said third class of service, if applicable, support said determined weight

(column 7, lines 21-23; column 8, lines 45-46; Tables 1-3); wherein said first class of

service is appropriate if said first class of service supports said determined weight

(column 7, lines 18-21; column 8, lines 38-39; Tables 1-3). Kulik further teaches that a

dimension is a parameter, along with weight, that is used to determine appropriate

classes of mail (column 5, lines 1-4).

12.   As per claim 20, Kulik in view of Ramsden, et al. teaches the system of claim 19

as described above. Kulik further teaches determining said third class of service and

said fourth class of service based on predetermined rules for switching classes (column

6, lines 44-45; Tables 1-3). Examiner is interpreting a rates manager with break points

for each selected class as predetermined rules for switching classes.

Conclusion

13.   Examiner has cited particular columns and line numbers in the references as

applied to the claims below for the convenience of the Applicant. Although the specified

citations are representative of the teachings in the art and are applied to the specific

limitations within the individual claim, other passages and figures may apply as well. It

is respectfully requested that the Applicant, in preparing the responses, fully consider

the references in entirety as potentially teaching all or part of the claimed invention, as

well as the context of the passage as taught by the prior art or disclosed by the

Examiner.

14.   THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

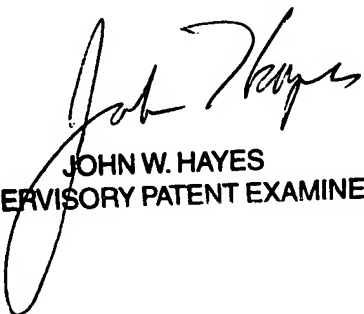TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

15.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Daniel P. Vetter whose telephone number is (571) 270-

1366. The examiner can normally be reached on Monday through Thursday from 8am

to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

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system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JOHN W. HAYES
SUPERVISORY PATENT EXAMINER